

“Balkanka” Association, Sofia, Bulgaria  
*“Nature has all the time in the world, we do not”.*

**COMPLAINT**  
**TO**  
**THE COMMISSION OF THE EUROPEAN COMMUNITIES**  
**CONCERNING FAILURE TO COMPLY WITH COMMUNITY LAW**  
**APPENDIX 3**



Representative for this complaint:

/dipl.eng. Dimiter Koumanov/  
Member of the board

Sofia, Bulgaria  
03.10.2016



## **ABSTRACT**

Regarding the Complaint to the Commission of European Communities, lodged by Balkanka Association, Sofia, Bulgaria on **30.06.2015**, followed by the **Appendix №1 and №2**, lodged on **06.01.2016** and on **20.06.2016** respectively - joined together in DG Environment case file ID number **CHAP(2015)02363**, the following document contains additional information concerning numerous infringements of Union Law, discovered since the first Complaint and the Appendixes were lodged.

**Moreover - some of the warnings included in the previous documents have recently become a fact, causing on Natura 2000 sites the most disastrous eco catastrophe here since socialist times**, which will consequently lead to an irreparable social damage for the people living in several villages along the Struma and Botunya rivers as well.

We kept checking some future HPP's compliance with the Bulgarian law, the Habitats Directive and the WFD only to find some other practices regarding modifications and/or extensions of old water permits and decisions of RIEW or MOEW, that were not described in the previous documents, giving us the reasons to submit objections to MOEW officially for each of them with no effect at all.

During our ongoing research we discovered a case of unlawful state aid for the National Electric Company /NEK/, which happens to be the most brutal and environmentally harmful state company, operating out of any state environmental control.

Local people kept on asking us to check individual new projects in their regions, which they utterly disapprove because they have already witnessed what hydropower is causing to nature and to the people's wellbeing in the neighboring villages and rivers.

We kept submitting regular reports to MOEW and to the competent RBD as well, including pictures and videos for each HPP site we checked. The outcome of our "collaboration" with the state authorities continues to be at the zero level, revealing new problematic issues of great importance that need deep and thorough consideration in the process of investigating the environmental protection practice in Bulgaria, which in fact does not exist.

**Explicit warnings concerning possible environmental harm were included in some of our reports. These were deliberately disregarded by MOEW and disastrous environmental destruction has already happened in September 2016 twice in one week.**

The following document contains full description of the above cases. Depending on DG Environment good practice and will - it may be considered as an integral **Appendix 3** to the original Complaint, or as an entirely new complaint.

Anyone who reads this document, please note that you need to have read the original **Complaint** and **the previous two Appendixes** first - DG Environment case file ID number **CHAP(2015)02363**, because these documents contain information that will not be fully repeated herein. It will be repeated briefly only in case of unavoidable necessity or of description integrity. The numbering of new facts starts at **No83**, simply because the last fact in the **Appendix 2** to the original Complaint was **No82**.

## **Acknowledgements**

*We dedicate the following document to the poor people, living in the villages of Botunya and Glavatsy along the Botunya River and to the people of Lobosh, Jablyano and Zemen along the Struma River. The same rivers were killed by a deliberate MOEW refusal to follow the law - being warned for the forthcoming damage though, with all those people sentenced to live in misery alongside their poisoned dead rivers for decades with absolutely no hope for future development in the poorest rural regions of Bulgaria.*

<b>Contents:</b>	<b>Page</b>
<b><i>I. IDENTITY AND CONTACT DETAILS</i></b>	<b>004</b>
<b><i>II. DESCRIPTION OF THE SUSPECTED INFRINGEMENT OF UNION LAW</i></b>	<b>005</b>
- new facts	
A. The Botunya River destruction	006
B. The Struma River destruction	009
C. The Cherni Iskar river case	011
D. Paradoxes in the legislation - additional information	011
E. What about flood risk?	012
F. Additional problems in Natura 2000 areas	013
G. The horizontal social problem again	013
H. The National Electric Company /NEK/	014
I. The future Yadenitsa dam full story	016
J. Union laws (e.g. Treaties, regulations, directives, decisions) or principles underpinning Union law that we believe to have been breached by the authorities of the country	018
K. Does the EU country concerned receive EU funding relating to the issue that prompted this complaint, or may it receive such funding in the future?      Additional information	022
<b><i>III. LIST OF DOCUMENTS / EVIDENCE</i></b>	<b>023</b>
<b><i>IV. APPEALS/LEGAL ACTIONS/ OTHER ACTIONS</i></b>	<b>023</b>
A. New actions taken by “Balkanka” Association	023
B. New actions taken by MOEW, RIEW and RBD	023
<b><i>V. CONFIDENTIALITY – DATA PROTECTION</i></b>	<b>024</b>
<b><i>VI. AIM OF THE COMPLAINT</i></b>	<b>025</b>

## **ABBREVIATIONS**

<b>MOEW</b>	- Ministry Of Environment and Waters of Bulgaria
<b>RIEW</b>	- Regional Inspectorate/s of Environment and Waters
<b>RBD</b>	- River Basin Directorate/s
<b>BDDR</b>	- Basin Directorate Danube Region
<b>EARBD</b>	- East Aegean River Basin Directorate
<b>WARBD</b>	- West Aegean River Basin Directorate
<b>BDBSR</b>	- Basin Directorate Black Sea Region
<b>SAC</b>	- Supreme Administrative Court
<b>WA</b>	- Water Act
<b>FA Act</b>	- Fishing and Aquaculture Act
<b>EIA</b>	- Environmental Impact Assessment
<b>AA</b>	- Appropriate Assessment
<b>RBMP</b>	- River Basin Management Plan
<b>HPP</b>	- Hydropower Plant
<b>WWTS</b>	- Wastewater Treatment Station
<b>NEK</b>	- <b>National Electric Company</b>

## **I. IDENTITY AND CONTACT DETAILS**

### **1. Name:**

**"Balkanka"** Association, Sofia, Bulgaria

### **2. Sector / field of activity and location(s) where active:**

"Balkanka" Association is a non-profit, non-governmental organization, registered in Bulgaria for action in public benefit, on 07 August 2013, company file 203/2013 of the Sofia City Court, UIC 176566443. The main objectives of "Balkanka" are protection and conservation of river biodiversity, with a focus on conservation and restoration of indigenous Balkan brown trout */salmo trutta/* populations in Bulgarian rivers.

## **3. ADDRESS OR REGISTERED OFFICE**

### **3.1. Surname and forename of complainant:**

**Kraislav Dimitrov**, Chairman of the board

### **3.2. Where appropriate, represented by:**

**Dipl.eng. Dimiter Koumanov**, member of the board

### **3.3. Nationality:**

Bulgarian

### **3.4. Address:**

Petko Todorov blvd, bl.8, en. D, app.87

### **3.5. Town:** Sofia

### **3.6. Post code:** 1408

### **3.7. Country:** Bulgaria

### **3.8. Mobile telephone:**

+359 887 931 241

### **3.8. E-mail:** [dkoumanov@abv.bg](mailto:dkoumanov@abv.bg)

## **4. Correspondence from the Commission can be sent to the complainant**

## **5. Member State or public body alleged by the complainant not to have complied with Community law:**

The Bulgarian Ministry of Environment and Waters (MOEW), the Regional Inspectorates of Environment and Waters (RIEW) and the River Basin Directorates (RBD) with MOEW.

## **II. DESCRIPTION OF THE SUSPECTED INFRINGEMENT OF UNION LAW**

This document contains additional to the previous Complaints **/CHAP(2015)02363/** important information, concerning systematic violation of Community law (the Water Framework Directive, the Habitats Directive, the SEA Directive and the Flood Directive) and of national strategic documents that correspond to planning, approval, construction, operation and control of hydropower plants (HPP) in Bulgaria.

As described already in the original Complaint - Balkanka Association has set up /with the substantial help of *WWF-Bulgaria*/ an internet HPP monitoring platform <http://dams.reki.bg/> - where we upload and publish all information that refers to commissioning, design, construction and operation practice of HPPs, we manage to collect. In July 2016 the number of operating HPP in Bulgaria was exactly **258**.

Since the first Complaint was lodged, with a number of **50** HPP visited at the time, we have already checked some **105** other HPP sites - some of them on more than **5 /five/** occasions. The number of weirs checked exceeds the number of HPP by far, due to the fact that cascades have numerous water catchments. Today the overall number of HPPs visited and checked is **155** and the weirs - more than **200**.

For each and every HPP site visited we are sending reports to MOEW and to the competent Basin Directorate. At a recent protest of ours we were informed by MOEW that they did carry out **138** checkups this year in the summertime and managed to catch **19** infringements of the legal requirements. Obviously those checkups were carried out during high water after some heavy rainfall, because our own inspections show quite a different picture. The other possible explanation is that operators were warned in advance. Actually we had to change some of the HPP's assessments on our site from positive in the previous year to negative this year, which means that the situation with the anarchy in the environmental river protection is only getting worse.

Considering the accumulation of silt in the HPP lakes to be a great threat to environment we permanently reported to MOEW the cases of lakes full of silt to the top, when we discovered such cases. No one paid attention until the **Luna HPP** executed a massive discharge of the entire silt into the Botunya River on 16th and 17th September 2016 to kill every living creature in and around the river for many kilometers downriver in a Natura 2000 Habitats directive site. MOEW has stopped the plant and imposed a fine. This action of MOEW has brought into the minds of the other law abiding hydropower operators such respect and fear of the law that - two weeks later - the upper **Botunya HPP**, which is located a few kilometers upriver, released its silt too in the same Natura 2000 Habitats directive site.

Moreover - a new Pchelina HPP was built and set into operation under the wall of the old Pchelina dam this year. It caused initially the death of a lot of fish in the dam by discharging a great amount of the water from the dam. Then it went to the opposite extreme by a direct order of MOEW - it stopped working and discharging any water into the river, only to leave the riverbed below the dam almost completely dry. When the dam was full of water again, the HPP started working and discharged toxic deposits from the dam bottom layer into the river to kill what was left alive in it. We warned MOEW about the forthcoming damage and MOEW allowed the HPP to start working nevertheless. This has also happened in a Natura 2000 Habitats directive site. And the Pchelina dam itself is another ecological bomb with delayed detonation which was created alright, but was not blasted even in the Socialism. We had to become an EU member with all those beautiful directives, to activate this one.

The described Botunya and Struma River cases display another social issue of a great importance, since they happened in the poorest rural regions of the country, where the toxic silt and water makes irrigation and livestock breeding impossible for decades



Another important issue included in the following facts describes numerous violations of the law committed by the National Electric Company **/NEK/**, which were allowed by MOEW as if the law does not exist or is not applicable in the case of **NEK**. Moreover - we have a document issued by MOEW attempting to produce an exemption for **NEK** from the duty to follow the law for the water it uses for hydropower production or for other purposes, leading to economic advantage for the company and affecting the competition with the other companies operating in the same field of activities. It should be noted that the same NEK is going to build the new Yadenitsa dam, which is another future crime against nature here, about to be committed with the substantial help of the EU.

These and other facts are included in the following document.

#### **IMPORTANT:**

Like in the previous documents, we have once again exposed each new fact all along with a new proof, uploaded on <http://dams.reki.bg/Dams/Map> - when pictures and/or videos are concerned. A picture is extracted from the contents of each link /usually the most clear one/ to verify the fact, but while in some cases videos are also attached to the links - it will be much better to follow the links in order to get a full view on the problem.

When documents are referred to - they are quoted as numbers in the list of evidence /see chapter III please/.

We are sending the appendix directly via e-mail again. Copies of the documents can be downloaded and extracted from the direct links included in the text below.

#### **The new facts justifying this Appendix 3 to the original Complaint are:**

##### **A. The Botunya River destruction**

##### **Fact No 83:**

On 16th and 17th September 2016 the **Luna HPP** at the above river executed a massive discharge of the entire silt accumulated in the lake into the Botunya River to kill every living creature in and around the river for many kilometers downriver. It happened in a Natura 2000 Habitats directive site **Bilernitsite BG0000593**, full of protected river priority habitat types and priority species.

It should be noted that on the previous day - September 15th, a checkup by the competent BDDR was carried out only to discover that everything is OK. It means that the "competent" BDDR didn't notice the silt in the lake and/or didn't prescribe any measures to be undertaken. This happened about two weeks after a proud declaration of MOEW informing the public for a massive execution of inspections by all RBD in the country. As a result of the inspections - only **19** infringements out of **138** checkups were discovered. No wonder why...

Now, the silt problem was described on page 23 in Chapter F. of the Appendix 1 to the original Complaint we lodged with DG Environment. A copy of the document was sent also to MOEW thus they were informed about the problem too. On another occasion we have informed MOEW again about the same silt problem, during the assessment of an unreasonable project they are trying to promote here. The project is about some future hydropower development - with no solution for the silt removal proposed in it at all.

In each of our weekly reports we stressed the point on the accumulated silt when we saw it in the lakes. We checked the Luna HPP last year, but there was no access to see the lake because of the security, otherwise we would have reported it, since the silt is among the most important issues that we check.

**And the competent BDDR didn't check and see the silt at all, while checking the HPP at the previous day?** Now the damage caused is really irreparable for at least a

decade, depending on the rainfall and high water to translocate the silt downriver gradually at an acceptable concentration in the water.

The case is indicative for the MOEW and RBD control effectiveness here. One day after the inspection and the operator feels free as a bird to do whatever he likes, knowing pretty well that the next inspection will be coming next year at the very best.

It is indicative for the consciousness of HPP operators too - most of them are criminals with a few exceptions only.

**Another thing to add** - the competent authorities - BDDR and RIEW, have imposed the heaviest sanctions of the law - **250 000€** fine and termination of the water permit. Minister Vassileva has personally promised the local people that this HPP will never work again - we have elections for president coming here soon. We hope for it, but are ready to bet that the **Luna HPP** will start work again within less than a year and a half. The reason is hidden in the corrupt Water Act - we have described the problem in one of our previous complaints.

**And still another thing** - BDDR and RIEW have ordered the operator to remove the silt within a week after the damage. Therefore when the minister was there - an excavator and two trucks were in the river during low water unsuccessfully trying to follow the order. The excavator and one of the trucks are shown on the front page picture of this document. The only outcome of those efforts was inevitable - the silt was mixed with water during low water, to be transported downriver only to increase the affected area and to kill what's left in it alive. Those people are incompetent. It must have been allowed the Nature to solve its problem during high water, leaving the river on its own to do what she is best in. There is nowhere to deposit the toxic silt, and no way to remove diluted silt from a rocky riverbed without the biggest river harm - removal or destruction of the bottom substrate:







**Photo credit for this picture of the Mayor of Botunya village, with a small carp in his hands - Zov News.**

**Proof**

<http://btvnovinite.bg/video/videos/tazi-sutrin/nakazanie-sled-ekokatastrofata.html>

- a report by BTV television network. **If you love wild rivers, do not watch it please.**

<http://dams.reki.bg/0161-dam/2016-09-21> The picture on the front page displays the excavator and a truck invasion in the river.

It should also be noted that Luna HPP is among the few HPPs for which there is an Appropriate Assessments carried out. Our review of this AA Report discovered serious deficiencies in the application of the EU Law. Though the AA report indicates that between the new HPP and an existing Botunya HPP upstream there is a distance of only “300-350 meters”, the report concludes that there is no cumulative effect to be taken into consideration...

**And yet another thing** - when we visited the area, we checked both HPP at the Botunya River to discover that the lake of the upper Botunya HPP is also full of silt. We included the information in our report, together with a warning to MOEW. On September 29th BDDR carried out an inspection and missed to prescribe any measures to be undertaken for the silt again. Right afterwards the same silt was discharged by the Botunya HPP into the river too...

**Proof**

[http://www.reki.bg/2016/09/blog-post\\_23.html](http://www.reki.bg/2016/09/blog-post_23.html) - our warning report

<http://www.zovnews.com/index.php?lang=bg&r=home%2FnK9yvg%2FWKUSiT#.V-0oX5nDnMM.facebook> - the local media report on September 30th.

**One simple reason for that - the HPP operators know they are untouchable by the vague Water Act.**



## **B. The Struma River destruction**

### **Fact No 84:**

A new Pchelina HPP was built in the last years and was set into operation in 2016 under the wall of the old Pchelina dam, with the permission of MOEW.

For a month it managed to drain a great amount of water from the dam during low water in the spawning period of fish, leaving the inseminated caviar on the dried strand. **This happened with the permission of MOEW**, allowing the operator to use and discharge almost twice a bigger water quantity than the water quantities delivered by the adjacent rivers in the dam.

#### **Proof**

[http://www.moew.government.bg/files/file/Water/Povarhnostnivodi/Mesechen\\_grafik/2016/Grafik\\_06\\_2016.pdf](http://www.moew.government.bg/files/file/Water/Povarhnostnivodi/Mesechen_grafik/2016/Grafik_06_2016.pdf)

- the MOEW protocol with the permissible water quantities for June 2016 - the Pchelina dam together with the HPP are on page 14.

<http://www.duma.bg/node/127279> - one of many reports about the half empty dam.

In socialist times the dam was built as a precipitant volume to collect the toxic discharge of Pernik and Radomir industrial zones, which was the main purpose of the dam explaining the reason why there was no HPP installed there, since the usage of the high pressure at the bottom layer of the dam wasn't possible and sensible. We needed to become an EU member with all the EU directives to disregard such basic environmental issues, presumed and taken into account even by the socialism.

Therefore, when the level of the lake dropped down, the media reported a lot of dead fish in the dam as well. Then MOEW urged the Pchelina HPP operator to stop working, which has left the Struma River below the dam with no water at all. The HPP terminated any discharge, instead of releasing the ecological river flow. **This happened after a direct order of MOEW.**

#### **Proof**

<http://www.moew.government.bg/?show=news&nid=4496>

- communication uploaded on the official MOEW internet site for the order.

<http://dams.reki.bg/0492-dam/2016-07-07>

- the Struma River was running with only about **50 l/sec** at the time of our visit on July 7th 2016:



The minimum ecological river flow must have been at least ten times bigger than 50 l/sec acc. to the Water Act.

At this point we wrote a letter to MOEW which held a warning that, if the HPP starts work again, the toxic deposits will be discharged from the bottom layer of the dam into the river, to kill what's left in it. MOEW didn't listen to the warning. On September 8th 2016 the Dam was full again and the HPP started working. This is how our warning became a fact - the water in the Struma River became blue and tons of dead fish were found at the river banks. **This happened with the permission of MOEW again.**

### **Most important:**

According to the water permit for the Pchelina HPP a maximum water quantity of **8.6** cubic meters per second is allowed by MOEW to be used for hydropower production and the installed turbine power is designed accordingly. This water quantity exceeds the average multiannual river flow delivered in the dam nearly twice.

This way the HPP will be running in cycles during low water - at full power, extracting 8.6m<sup>3</sup>/sec from the dam and discharging them into the river. When the water level in the dam drops down enough - the water flow below the dam will stop running, as it already happened in June 2016. No river ecosystem can survive in such a regime of endlessly repeated water shocks during low water. The expected hydro peaking is a direct result of the poor design and inappropriate permits, because the small HPPs here have all the negative effects that big dams have. /Therefore we reckon that such facilities should be treated as big hydro and should not be subsidized as Nature saving renewable energy/.

And the river is also used for bathing near the city of Zemen - where a tributary stream flows into the Struma River, by many people including children...

Is there any risk for human safety if 8.6 cubic meters per second low temperature water is coming suddenly and unexpectedly through a narrow riverbed? We have warned MOEW about this problem too... Hope that future doesn't prove us right on this one.

### **Proof**

[http://dams.reki.bg/uploads/Docs/Files/OBJECTION%20PCHELINA%20MOSW\\_DRAFT5.pdf](http://dams.reki.bg/uploads/Docs/Files/OBJECTION%20PCHELINA%20MOSW_DRAFT5.pdf)

- a link to our letter of objection with the warnings in it. It contains a full description of the Natura 2000 Habitats directive site **Zemen BG0001012** with the priority habitat types and priority species hosted in. It also contains a full description of the numerous infringements of the state and EU law committed by MOEW within the approval procedures and permits. The warning about the toxic discharge is at the bottom lines of page 12 and the warning about human safety is at the end.

<https://eea.government.bg/bg/press-center/news/poluchen-signal-za-zamarsyavane-na-reka-struma-sled-yazovir-pchelina>

- a link to the Environment Executive Agency official internet site proving the river pollution discovered by the same state agency on 09.09.2016. It also proves that the Pchelina HPP has caused the damage.

<http://btvnovinite.bg/article/bulgaria/obshtestvo/ekovlastite-vse-oshte-ne-mogat-da-namerjat-sobstvenika-na-veca-zamarsil-r-botunja.html>

- a BTV television network broadcast - the first video clip shows the Botunya River damage. The second video shows the blue Struma River, the damage and the local protest against MOEW and the Pchelina HPP.

### **NOTE:**

In the above two facts there are some other important ecological and social issues to be dealt with in the next chapters F. and G.

## **C. The Cherni Iskar river case**

### **Fact No 84:**

In August this year BDDR announced on its public internet site that a Surface Water Body Exploitation Permit for a brand new Energy Govedartsy HPP is going to be issued. It is designed to operate with three separate water catchments - one at the Cherni Iskar River and the other two at its tributaries - Gorna Preka and Malyovishka rivers. Since the entire project is located within the boundaries of the future Habitats and Birds directive site **Rila Bufer** we started checking the project's environmental legislation compliance.

The future **Rila Bufer** Habitats and Birds directive site and the above three rivers in it host priority habitat types and priority species hence hydropower production is unacceptable acc. to the Habitats directive - see also chapter F. please.

We also managed to discover that the future turbine house will be located at a distance of 160 meters above an existing drinking water catchment. This catchment is used for the water supply of some villages in the Samokov city area and for the city of Sofia as well. Meaning that the future turbine house will be located within the boundaries of **sanitary protection zone - ring 1** of the drinking water catchment, where the mere presence of any people, other than the service technicians of the water catchment, is strictly prohibited in order to meet the necessary hygienic requirements.

Knowing that we immediately forwarded an objection to the "competent" BDDR, which was disregarded at once and the permit was issued, although the objection was full of many other facts proving many additional violations of the law. And the surface water bodies used for drinking water require here the highest level of protection possible, the same required by the EU WFD as well.

### **Proof**

[http://dams.reki.bg/uploads/Docs/Files/20160828\\_JALBA\\_GOVEDARZI\\_MOSW\\_DRA\\_FT6.pdf](http://dams.reki.bg/uploads/Docs/Files/20160828_JALBA_GOVEDARZI_MOSW_DRA_FT6.pdf)

- here is a link to the objection we have sent to MOEW being the superior to the BDDR authority for the issue. We still are waiting for an answer from MOEW. In case the objection is overruled again we will sue the ministry in a court of law.

This case only proves that nothing else, other than hydropower, matters in Bulgaria. Corruption is the only key, since private hydropower is offering the state officials stimuli which can't be matched by any other human activity along the rivers. Thus pure drinking water can be sacrificed so easily. And there are processes of eutrophication, as well as silt accumulation, in the HPP ponds to be considered for the drinking water catchment...

### **NOTE:**

There are some other important ecological and social issues to be considered again, but we will come to that later - in the next Chapters F. and G.

## **D. Paradoxes in the legislation - additional information**

### **Fact No 85:**

In the previous complaint editions we have exposed many cases where the minimum ecological water quantity is not discharged bellow the HPP water catchments. We have also proved that HPP operators can't measure the same water quantity and that the RBDs can't check it either. There are no legal requirements for equipment installation to measure the ecological flow available too.

On the other hand - detailed regulations concerning equipment installation to measure the water quantity that goes through the turbines for hydropower are everywhere



- the legal framework is full of such requirements. This simply means that the state has the financial interest of more water to be stolen from the rivers, because it will increase the taxes paid. Nature killing has its price.

**Fact No 86:**

In the previous complaint editions we have also shown some old existing water catchments used today for hydropower, equipped with no fish pass of any kind. The majority of them were built for irrigation, at existing channels from the past socialist times. Recently we managed to discover that the Water Taxes Tariff requires in these cases bigger taxes to be paid by the operators. At the same time the Fishing and Aquaculture Act does not allow exceptions - every HPP operator is obliged to design and build a fish pass at the barrage, if such a pass does not exist. So the law is disregarded for the aim of bigger profit for the state again. Nature killing has its price you know.

**E. What about flood risk?** Or is there any relation between hydropower and flood risks?

**Fact No 87:**

To answer the question we have to get back to the map, displaying all operational today and future HPP along the Iskar River, published in the new RBMP 2016-2020 of the Danube region:



To be enlarged and studied in detail again, the map can be downloaded from the following link:

<http://dams.reki.bg/uploads/Docs/Files/HPP at the Iskar River.jpg>

The map shows 35 /thirty five/ operational /the blue dots/ and future /the yellow dots/ HPP along the Iskar river from the Iskar Gorge to the Danube.

Now - if all those future HPP are built one happy day, the barrages and lakes will be connected with no river running in between. Then the first question to be asked is - what about the silt transfer, or what will happen with the silt? The second - what will happen when a high water wave is coming in the longest river basin in Bulgaria - the Iskar river basin? And if those HPP lakes are full of silt - compact and sealed to some extent? Silt is running out of lakes with a slower speed than water. And what if it is spread in the areas affected by the flood? In the brand new Flood Risk Management Plans there are no answers to these questions offered.

And the situation is the same with the Ogosta River to the left of Iskar on the map, with the future investment plans along Maritsa River in the East Aegean River Basin and so on.

## **F. Additional problems in Natura 2000 areas.**

### **Fact No 88:**

Here we have to get back to the Botunya and the Struma River cases again - facts No 83 and 84. In the previous complaint editions we proved that Natura 2000 means nothing in BG. In these cases there is something more to add:

The Botunya and Pchelina HPP were both implemented without Appropriate assessments of their possible impact on Natura 2000 Habitats Directive sites. Both sites concerned host priority habitat types and priority species. But this is no news - breaching the Habitats directive is a common practice here - we have proven that in our previous complaints. In these particular two cases there is something more to add:

The Botunya River was harmed additionally by an order of MOEW for the silt to be removed. Thus the impact zone was extended. The reason is MOEW incompetence.

The Struma River was killed between the Pchelina dam and the city of Zemen with the special permission of MOEW, regardless of our warning for the upcoming damage. We are sure that river killing had its price again - such crimes are never done for free.

**We have another warning for the Struma River now - the damage will continue to grow. The Pchelina dam holds such a poisonous amount of toxic water that is capable of killing every living creature along the entire length of Struma River to the Greek border and beyond.** Actually at the time the dam was built after the solicitation of the Greek state. At the same river there is another dam in Greece which we will be glad to send our best wishes and our toxic waters as well. It's just a matter of time...

### **Fact No 89:**

What about the Cherni Iskar case? As we already said /see fact No 85/ - all three future water catchments are located within the boundaries of the future **Rila Bufer** Habitats and Birds Directive site. We know now that DG Environment has brought the Rila Bufer case in the European Court. Too late we have to add, because some six years have already passed since the site was approved by the National Council. And the announcement of the site was postponed again this year! There are too many business interests concerned, including hydropower, and Nature killing has its price without a doubt. The **Rila Bufer** site has a lot in common with the future Yadenitsa dam, but we will come to that in the next Chapters again.

## **G. The horizontal social problem again.**

### **Fact No 90:**

Many times we said that local people started calling us for help. In every contact with the locals we discover that they were not informed about the future HPP which is going to be built at their local river. They get to know about it when the excavators come and start digging to destroy the river. Unawareness of local people turned out to be a widespread problem. If anyone asks MOEW about it - they always say that the legal requirements for public information are strictly followed, which is true. The problem here is in the legislation which is deliberately prepared to keep the public unaware. The announcements are always placed on signboards in the big municipality - in a city that is sometimes at a distance of 30 kilometers or more from the village and its river. Notifications are also uploaded on the internet sites of RBD and RIEW, but in many of

those villages there isn't internet available and/or people are too old or poor to deal with such a crap.

Most of the HPP investment plans have not been subject to a public consultation and discussion either, even in Natura 2000 protected areas. It happens because the same investment plans are directly implemented without an EIA or AA for the project implications on environment with quite a few exceptions - we have proven the fact in the previous complaints.

This has been deliberately done by the state authorities - the law is followed, no one's guilty or responsible and yet the local people are unaware of how lucky they will be to have a beautiful new HPP around. No one asked them for opinion - are they feeling happy with the damn thing. This happened in the villages of Govedartsi, Lakatnik and many other.

When the excavators come, the locals start to ask questions or to fight - if they are acquainted with the advantages of hydropower. Then the future operator comes, with a pocket full of promises for working places/vacancies, regional development and so on, but at this point it is too late. Having mentioned regional development we come to the next:

#### **Fact No 91:**

In the above Struma and Botunya River cases /facts No 83 and 84/ the described scheme was exactly followed and the local people never knew what's coming up. Now here is the expected regional development for the Botunya and the other villages along the dead Botunya River:

- the river and its banks are full of toxic silt - at some spots it reaches the depth of meter and a half, or even more.
- the water is not suitable for irrigation purposes.
- the cattle can't reach the river but, even if it can - the water is not suitable for drinking
- there is a stink around the river, raising questions about the cleanness of the air.
- there is a risk of groundwater pollution in a carst region coming up. When that happens ground waters will not be suitable for irrigation purposes and livestock breeding either.
- the river will not be suitable for bathing for an unknown period of time.
- having the above in mind - there is a risk for human health.
- river fishing - so popular among the locals, is dead for at least a decade, depending on the rainy years to come. Heavy rainfall and spring high water are the only river cure - to bring the silt downriver at an acceptable level or extent of water pollution. And did you see the small dead carp the local Mayor holds?
- river depending wild animals and birds are condemned, as well as hunting in the area...

**This is the forecast for the regional development today, despite the promises for hydropower fortunes. The same forecast goes for the Struma River case. What fine will match the damage now?**

#### **H. The National Electric Company /NEK/.**

Now this one is the biggest criminal of all. It is an ordinary state company, as simple as can be but, nevertheless, they always say - *we are The State*, meaning that the law does not apply for NEK, not to mention the EU Directives - they've never heard of these. Those people are still living in the Socialism and are ready to admit the existence of the EU only if some funding is to be received. In the previous complaints we have exposed the crimes against nature, caused by the Belmeken-Sestrimo Cascade, the Yadenitsa derivation channel, the Batak Hydropower Drive and the Petrohan Cascade /see fact No 36A, No 39, No 40 and 41 in Annex 1/. All these hydropower units are



working under the ownership of NEK, except for Petrohan where NEK owns the water supply system - water catchments, derivation channels and dams, while Energo Pro owns the hydropower plants. Here are some new facts to prove our statement once again:

**Fact No 92:**

For the dry rivers under the Petrohan cascade we forwarded three additional reports and there was no reaction from MOEW. And NEK owns the 53 water catchments of the Petrohan cascade at present, where there are no fish passes and the requirements for minimum ecological flow of the Water Act are not followed at all - most of them do not release a single drop of water. Finally the BDDR has carried out a checkup to discover the infringement and on 07.07.2016 issued a penalty provision for the crime. Then MOEW has come again to write a letter to the NEK executive director that the competent for the matter BDDR provision has no legal grounds.

**Proof:**

<http://dams.reki.bg/0211-dam/2016-07-01>

- the results of one of our visits followed by an immediate report.

**DOCUMENT No 1.**

[http://dams.reki.bg/uploads/Docs/Files/20160902MOEW\\_ANSWER\\_TO\\_NEK.pdf](http://dams.reki.bg/uploads/Docs/Files/20160902MOEW_ANSWER_TO_NEK.pdf)

Now this document is really The Action Number One of MOEW this year, besides the Botunya and Struma river destruction of course. In the first place - it is an attempt for inadmissible interference in the independent decisions of the inferior state authority - BDDR, competent to deal with the particular infringement of the law.

In the second place - it is an attempt to establish an exemption for **NEK** from the duty to follow any legal requirements and receive penalties if it doesn't, leading to economic advantage for the company and affecting the competition with the other companies that operate in the same field of activities. All the other operators must release the ecological flow - thus reducing the production in dry months or even putting it to a temporary halt, and must have costly fish passes at their water catchments - these expenses have been saved for NEK by the above letter of MOEW. Now who can force NEK to build fish passes for the other cascades' water catchments or to start discharging water anywhere?

This way the above letter constitutes an infringement which can be described as an alleged Unlawful State Aid because it grants a simple ordinary company the use of state resource with an advantage for the same ordinary company in the competition with the other companies operating in the same field of activities. **Therefore this letter of MOEW is in breach of article 107(1) of the Treaty on the Functioning of the European Union itself.**

**Proof:**

[http://ec.europa.eu/competition/forms/intro\\_en.html](http://ec.europa.eu/competition/forms/intro_en.html)

[Council Regulation \(EU\) 2015/1589 of 13 July 2015 laying down detailed rules for the application of Article 108 of the Treaty on the Functioning of the European Union](#)

Now it's easy to imagine what the decision of the competent BDDR director has to be - after such a letter from the superior authority - MOEW. And even if the director decides to keep on following the law by releasing the penalty provision - what the decision of the court will be, when the case is brought in court by NEK?

It should also be noted that - only in the case of the Petrohan Cascade - NEK owns the water supply system /water catchments, channels and dams/ and the Energo

Pro Company owns the HP plants. For the other cascades NEK owns everything. There are two types of water permits required by the BG Water Act - Water Abstraction Permit and Water Body Exploitation Permit. For Petrohan cascade Energo Pro holds the first one, but no one holds the second.

On the other hand - NEK owns the water catchments and actually takes the water from the rivers. Then the Fishing and Aquaculture Act is clear - the owner must provide for the migration of fish by building proper fish passes for the aim, not the user.

**Fact No 93:**

The following links contain additional pictures and videos about many water catchments at the Granchar derivation channel in the Rila mountain for the Belmeken-Sestrimo cascade, displaying not a single fish pass and not a drop of water discharged either:

<http://dams.reki.bg/0485-dam/2016-06-18>

<http://dams.reki.bg/0485-dam/2016-06-24>

Moreover - the first link shows the Razhdavitsa River near the Belmeken dam having two water catchments located within no more than 100 meters from one another, meaning that, if the first one fails to catch it all, then the second one will do.

**Fact No 94:**

This year we managed to shoot the same at all the water catchments belonging to the Yadenrtsa channel:

<http://dams.reki.bg/0488-dam/2016-06-18>

**Summary of the information about NEK**

As everyone can see - there is not a single fish pass and no river is running bellow each of the countless water catchments that belong to NEK, no matter where they are. The competent state authority - MOEW has also produced an official document to NEK containing an exemption from the duty to follow the law. And how about achieving good ecological river status at some point in the unknown future that will never come around?

**So it turns out that NEK is right - after all It really is The State, and acc. to MOEW the BG legislation is not applicable in its case, neither are the EU Directives, nor the Treaty on the Functioning of the European Union itself. Therefore we will keep on stating that NEK is the biggest criminal of all - that is a proven fact today!**

**I. The future Yadenitsa dam full story.**

The future Yadenitsa dam full story can be downloaded from the following link:

**Document No2:**

[http://dams.reki.bg/uploads/Docs/Files/BELMEKEN\\_CHAIRA\\_YADENITSA\\_STUDY\\_DRAFT4.pdf](http://dams.reki.bg/uploads/Docs/Files/BELMEKEN_CHAIRA_YADENITSA_STUDY_DRAFT4.pdf)

We will stress the point here only on some issues, important enough to be always remembered while reading the above full story:

1. It is a proven fact that NEK is the biggest criminal against Nature here.
2. It is a proven fact that NEK receives unlawful state aid.
3. It is a proven fact that NEK is vainly spending public money without control, only to be distributed among NEK connected companies and men.

4. It is a proven fact that NEK is actually stealing money from everyone in this country without control, with the poorest people of Bulgaria included.
5. It is a proven fact that politically connected businessmen are allowed by NEK to export the cheap energy production of the Kozoduy NPP, while the poor people are paying for the other energy produced by the coal ThPP and the renewables, expensive as it is.

Here we have already proven Points 1 and 2 of the above. Since this complaint is addressed to DG Environment we know that Points 3 to 5 are not an issue to be discussed and proven here. As proof we will briefly mention only the present problem that we have to pay now more than 700 million € for the future in the past Belene NPP two nuclear reactors, which we do not need at all. Due to the large excess of all kind of electrical power facilities we do not need the Belene NPP either, but for the mere construction of this Plant several billion Euro have been also spent in vane so far.

However, we will include only a short overview of the ecological problems that raise a great concern in the case of the future Yadenitsa dam:

1. The dam will be located in the **Rila Bufer** Habitats and Birds directive site. The site hosts priority habitat types and priority species. The site is not announced yet for the main reason of the Yadenitsa dam construction.
2. The waters of all tributary to the Yadenitsa river streams are caught at 100% by **19** water catchments of the Yadenitsa channel - see fact No 94. **13** of these **19** water catchments will continue to steal every drop of water from the tributaries after the construction of the dam
3. Less than a kilometer downriver the Yadenitsa River enters the existing and announced habitats directive site **Yadenitsa BG0001386** which hosts priority habitat types and priority species as well. Some of those **13** remaining operational water catchments are located within the boundaries of the site, the other are located in the Rila Bufer site. At the same river there are two future SHPP to be built additionally in the same Natura 2000 Yadenitsa site.
4. On May 27, 2015, a tender procedure for the implementation of an AA about the new dam implications on Natura 2000 Habitats directive site Yadenitsa BG0001386 was announced. The Terms of Reference deal only with the possible impact on Natura 2000 **Yadenitsa BG0001386** site, not saying a single word about the **Rila Bufer** site. In the same terms there isn't a word about any cumulative effect of the **13** water catchments remaining operational to be taken into consideration for the Yadenitsa dam impact either, not to mention any cumulative effect together with the two future SHPP along the same river.

**Proof:**

[http://www.aop.bg/case2.php?mode=show\\_doc&doc\\_id=668742&newver=2#B](http://www.aop.bg/case2.php?mode=show_doc&doc_id=668742&newver=2#B)

Now this is the death sentence for the Yadenitsa River and for the habitat types and species, protected in the described Natura 2000 sites.

**It will happen with the help of the EU**, since the dam will be co financed by NEK and the EU in some way.

<http://nek.bg/index.php/en/about-us/hydro-pumped-storage-in-bulgaria-yadenitsa>

It's written in the above link that the Yadenitsa dam is a **PCI /Project of Common Interest/**.

**Well, it really is in the interest of NEK** - a lot of money to be spent and distributed, expenses for consultancy services of many connected experts and companies to be paid for etc. We have a saying here - If you need to bribe someone - then hire a consultant, because he knows the path.



Just one example - the cost of the AA is expected to be **500 000BGN**, while the average price in every other case of AA here /even the most complex one/ does rarely reach **5 /five/** times a smaller price. We can predict now that the AA will be the best one possible and that it will prove that everything will be OK, meaning that an adverse impact on Nature, or on those two Natura 2000 sites, will never happen, because it is impossible. We can predict one other thing too - the leading expert will be called Rositsa Nikolaeva, because *she is the man* around here, when killing rivers or entire river basins is at stake.

**As for the project's full environmental, economical and social due diligence, please read Document No2.**

[http://dams.reki.bg/uploads/Docs/Files/BELMEKEN\\_CHAIRA\\_YADENITSA\\_STUDY\\_DRAFT4.pdf](http://dams.reki.bg/uploads/Docs/Files/BELMEKEN_CHAIRA_YADENITSA_STUDY_DRAFT4.pdf)

We also have to point out here that a PCI is subject to article 107, paragraph 3 [b] of the Treaty on the Functioning of the European Union, which means that state aid can be considered permissible for the Yadenitsa dam, with the same logically applicable for the EU help. But still the **Guidelines on State aid for environmental protection and energy 2014-2020** call for phasing out of environmentally harmful subsidies like NEK, as well as to avoid State aid measures that lead to an environmental harm.

Of course the above article 107, paragraph 3 [b] does not present an applicable derogation for the other state aid NEK receives, described here in Chapter H.

It should also be recalled that the **Decision by the European Court of Justice on 01.07.2015** for the interpretation of Article 4(1)(a)(i) to (iii) of the WFD requires from the Member states to refuse authorization for an individual project where it may cause a deterioration of the status of a body of surface water or where it jeopardizes the attainment of good surface water status or of good ecological potential and good surface water chemical status by the date laid down by the directive. And the Yadenitsa River together with all its tributaries will simply cease to exist if the Yadenitsa dam is done.

**Finally - here is another paradox again:** the main reason for the **Rila Bufer** site not to be announced yet is the future Yadenitsa dam. DG Environment has brought the Rila Bufer case in the European Court of justice. At the same time the EU is going to finance the Yadenitsa dam, announced as PCI - can someone tell us what is going on here?

There still is another paradox considering the seismic safety of the tunnel between the Chaira dam and the future Yadenitsa dam - for detailed information please read **Document No2.**

## **J. Union laws (e.g. Treaties, regulations, directives, decisions) or principles underpinning Union law that we believe to have been breached by the authorities of the country**

- **Treaty on the Functioning of the European Union**

- **Article 107**

- (ex Article 87 TEC)

- 1. Save as otherwise provided in the Treaties, any aid granted by a Member State or through State resources in any form whatsoever which distorts or threatens to distort competition by favouring certain undertakings or the production of certain goods shall, in so far as it affects trade between Member States, be incompatible with the internal market.

- 2. The following shall be compatible with the internal market:
  - (a) aid having a social character, granted to individual consumers, provided that such aid is granted without discrimination related to the origin of the products concerned;
  - (b) aid to make good the damage caused by natural disasters or exceptional occurrences;
  - (c) aid granted to the economy of certain areas of the Federal Republic of Germany affected by the division of Germany, in so far as such aid is required in order to compensate for the economic disadvantages caused by that division. Five years after the entry into force of the Treaty of Lisbon, the Council, acting on a proposal from the Commission, may adopt a decision repealing this point.
- 3. The following may be considered to be compatible with the internal market:
  - (a) aid to promote the economic development of areas where the standard of living is abnormally low or where there is serious underemployment, and of the regions referred to in Article 349, in view of their structural, economic and social situation;
  - (b) aid to promote the execution of an important project of common European interest or to remedy a serious disturbance in the economy of a Member State;
  - (c) aid to facilitate the development of certain economic activities or of certain economic areas, where such aid does not adversely affect trading conditions to an extent contrary to the common interest;
  - (d) aid to promote culture and heritage conservation where such aid does not affect trading conditions and competition in the Union to an extent that is contrary to the common interest;
  - (e) such other categories of aid as may be specified by decision of the Council on a proposal from the Commission.
- **Directive 2001/42/EC** of the European Parliament and of the Council of 27 June 2001 on the assessment of the effects of certain plans and programmes on the environment:
  - **Article 3(2)(a)**
- **2. Subject to paragraph 3, an environmental assessment shall be carried out for all plans and programmes,**
- **(a) which are prepared for agriculture, forestry, fisheries, energy, industry, transport, waste management, water management...**
  - Article 8
- The environmental report prepared pursuant to Article 5, the opinions expressed pursuant to Article 6 ... shall be taken into account during the preparation of the plan or programme and before its adoption or submission to the legislative procedure.
  - Article 11

#### Relationship with other Community legislation

- 1. An environmental assessment carried out under this Directive shall be without prejudice to any requirements under Directive 85/337/EEC and to any other Community law requirements.

- 2. For plans and programmes for which the obligation to carry out assessments of the effects on the environment arises simultaneously from this Directive and other Community legislation, Member States may provide for coordinated or joint procedures fulfilling the requirements of the relevant Community legislation in order, *inter alia*, to avoid duplication of assessment.
- 3. For plans and programmes co-financed by the European Community, the environmental assessment in accordance with this Directive shall be carried out in conformity with the specific provisions in relevant Community legislation.
- **Directive 2000/60/EC** of the European Parliament and of the Council establishing a framework for Community action in the field of water policy

**(1) Water is not a commercial product like any other but, rather, a heritage which must be protected, defended and treated as such.**

- **Article 4**

- 1. In making operational the programmes of measures specified in the river basin management plans:
  - (a) for surface waters
  - **(i) Member States shall implement the necessary measures to prevent deterioration of the status of all bodies of surface water, subject to the application of paragraphs 6 and 7 and without prejudice to paragraph 8;**
  - (ii) Member States shall protect, enhance and restore all bodies of surface water, subject to the application of subparagraph (iii) for artificial and heavily modified bodies of water, with the aim of achieving good surface water status at the latest 15 years after the date of entry into force of this Directive, in accordance with the provisions laid down in Annex V, subject to the application of extensions determined in accordance with paragraph 4 and to the application of paragraphs 5, 6 and 7 without prejudice to paragraph 8;
  - **(c) for protected areas**
  - **Member States shall achieve compliance with any standards and objectives at the latest 15 years after the date of entry into force of this Directive, unless otherwise specified in the Community legislation under which the individual protected areas have been established.**
- 2. Where more than one of the objectives under paragraph 1 relates to a given body of water, the most stringent shall apply.

- **Article 7**

- **Waters used for the abstraction of drinking water**

- 2. For each body of water identified under paragraph 1, in addition to meeting the objectives of Article 4 in accordance with the requirements of this Directive, for surface water bodies including the quality standards established at Community level under Article 16, Member States shall ensure that under the water treatment regime applied, and in accordance with Community legislation, **the resulting water will meet** the requirements of Directive 80/778/EEC as amended by Directive 98/83/EC.



- **Article 11**

Programme of measures

- 1. Each Member State shall ensure the establishment for each river basin district, or for the part of an international river basin district within its territory, of a programme of measures, taking account of the results of the analyses required under Article 5, in order to achieve the objectives established under Article 4. Such programmes of measures may make reference to measures following from legislation adopted at national level and covering the whole of the territory of a Member State. Where appropriate, a Member State may adopt measures applicable to all river basin districts and/or the portions of international river basin districts falling within its territory.

- **Article 23**

- **Penalties**

- **Member States shall determine penalties applicable to breaches of the national provisions adopted pursuant to this Directive. The penalties thus provided for shall be effective, proportionate and dissuasive.**

- **Council Directive 92/43/EEC of 21 May 1992** on the conservation of natural habitats and of wild fauna and flora

- **Article 6**

- 1. For special areas of conservation, Member States shall establish the necessary conservation measures involving, if need be, appropriate management plans specifically designed for the sites or integrated into other development plans, and appropriate statutory, administrative or contractual measures which correspond to the ecological requirements of the natural habitat types in Annex I and the species in Annex II present on the sites.
- 2. Member States shall take appropriate steps to avoid, in the special areas of conservation, the deterioration of natural habitats and the habitats of species as well as disturbance of the species for which the areas have been designated, in so far as such disturbance could be significant in relation to the objectives of this Directive.
- 3. Any plan or project not directly connected with or necessary to the management of the site but likely to have a significant effect thereon, either individually or in combination with other plans or projects, shall be subject to appropriate assessment of its implications for the site in view of the site's conservation objectives. In the light of the conclusions of the assessment of the implications for the site and subject to the provisions of paragraph 4, the competent national authorities shall agree to the plan or project only after having ascertained that it will not adversely affect the integrity of the site concerned and, if appropriate, after having obtained the opinion of the general public.
- 4. If, in spite of a negative assessment of the implications for the site and in the absence of alternative solutions, a plan or project must nevertheless be carried out for imperative reasons of overriding public interest, including those of a social or economic nature, the Member State shall take all compensatory

measures necessary to ensure that the overall coherence of Natura 2000 is protected. It shall inform the Commission of the compensatory measures adopted.

- Where the site concerned hosts a priority natural habitat type and/or a priority species, the only considerations which may be raised are those relating to human health or public safety, to beneficial consequences of primary importance for the environment or, further to an opinion from the Commission, to other imperative reasons of overriding public interest.

**Directive 2007/60/EC of the European Parliament and of the Council of 23 October 2007 on the assessment and management of flood risks.**

- (9) In developing policies referring to water and land uses Member States and the Community should consider the potential impacts that such policies might have on flood risks and the management of flood risks.**

***Article 1***

The purpose of this Directive is to establish a framework for the assessment and management of flood risks, **aiming at the reduction of the adverse consequences for human health, the environment, cultural heritage and economic activity associated with floods in the Community.**

**Bern Convention**

The aim of this convention is to ensure the conservation of European wildlife and natural habitats by means of cooperation between States.

**The parties undertake to:**

- **promote national policies for the conservation of wild flora, wild fauna and natural habitats;**

**Decision by the European Court of Justice on 01.07.2015:**

Article 4(1)(a)(i) to (iii) of Directive 2000/60/EC [the Water Framework Directive] must be interpreted as meaning that the Member States are required — unless a derogation from Art 4(7) is granted — to refuse authorisation for an individual project where it may cause a deterioration of the status of a body of surface water or where it jeopardises the attainment of good surface water status or of good ecological potential and good surface water chemical status by the date laid down by the directive.

**COMMUNICATION FROM THE COMMISSION**

**Guidelines on State aid for environmental protection and energy 2014-2020**

2014/C 200/01

**(6)** It should be recalled that the Resource Efficiency Roadmap <sup>(5)</sup> as well as several Council conclusions call for a phasing out of environmentally harmful subsidies <sup>(6)</sup>. These Guidelines should therefore consider negative impacts of environmentally harmful subsidies, while taking into account the need to address trade-offs between

different areas and policies as recognised by the flagship initiative. Aid for the extraction of fossil fuels is not included in these Guidelines.

- (7) The Roadmap also calls on Member States to address gaps in their performance in delivering the benefits from Union legislation<sup>(7)</sup>. To avoid that State aid measures lead to environmental harm, in particular Member States must also ensure compliance with Union environmental legislation and carry out an environmental impact assessment when it is required by Union law and ensure all relevant permits.

**K. Does the EU country concerned receive EU funding relating to the issue that prompted your complaint, or may it receive such funding in future?**

In the previous documents we have answered this question in detail. We will add information only for the Yadenitsa dam case. And the answer is - oh yes, it does. The country will receive EU funding for the dam. To be precise - the state company NEK will receive the funding, which is quite a bit different than the state or its people, because NEK is working only in the interest of NEK and a few powerful connected men. The total cost of the future dam is expected to be about some 200 million €, or so.

**III. LIST OF DOCUMENTS / EVIDENCE**

**Document 001 -**

[http://dams.reki.bg/uploads/Docs/Files/20160902MOEW\\_ANSWER\\_TO\\_NEK.pdf](http://dams.reki.bg/uploads/Docs/Files/20160902MOEW_ANSWER_TO_NEK.pdf)

- A letter from MOEW, informing the executive director of NEK, that the penalty provision of the competent BDDR has no legal grounds.

**Document 002 -**

[http://dams.reki.bg/uploads/Docs/Files/BELMEKEN\\_CHAIRA\\_YADENITSA\\_STUDY\\_DRAFT4.pdf](http://dams.reki.bg/uploads/Docs/Files/BELMEKEN_CHAIRA_YADENITSA_STUDY_DRAFT4.pdf)

- The Yadenitsa dam full story

**IV. APPEALS/LEGAL ACTIONS/ OTHER ACTIONS**

**A. New actions taken by “Balkanka” Association**

In the summer of 2016 we kept on sending regular reports to MOEW and RBD with no effect at all. The problem with accumulated silt was pointed out every time when we encountered silt accumulated in the ponds.

We also made a contact with the EBRD to inform the Bank decision makers about the numerous infringements of the Bulgarian Law, the Habitats Directive and the WFD in the case of the future Iliyana HPP - fact No 65 in Appendix 2 to the original Complaint.

We have forwarded to MOEW a warning letter for the future destruction of the Struma River in the Pchelina HPP case. The warning was disregarded and the Struma River is dead between the Pchelina dam and the city of Zemen.

**The outcome:**

There is only one result, but it is big - the EBRD, after a thorough project's Environmental and Social due diligence based upon our signal for the Iliyna HPP case, has decided to cancel the grant for this particular HPP. We congratulate the EBRD decision makers for the right decision.

**Proof:**

[http://dams.reki.bg/uploads/Docs/Files/20160918\\_EBRD\\_DECISION\\_ILIYNA.pdf](http://dams.reki.bg/uploads/Docs/Files/20160918_EBRD_DECISION_ILIYNA.pdf)

- e-mail from Mr. Peter Moore - Senior Environmental Advisor with the EBRD.

This act of the EBRD is a confirmation that the information we submit and the warnings in our letters are accurate and true. Many thanks to the EBRD for the fast reaction.

**B. New actions taken by MOEW, RIEW and RBD**

1. As we already said - MOEW has reported **138** checkups carried out this summer by the RBDs, discovering **19** cases of infringements. They must have done it during high water, because our own inspections show quite a different picture - less than 10% of the operators are following the law. Today it's obvious that, after a particular HPP has passed such an RBD checkup, the operator feels free to brake the law as he wishes.
2. There is a project that MOEW is very proud of and is going to promote. It is proudly called *Assessment of the combined HPP effects on river eco systems*. The project's fundamental invention is that HPP should not be built on rivers where there is a legislation ban for it. In every other case they are desirable and welcome. Some invention that is. The experts refused to come with us during our inspections to see some still remaining wild rivers and some operational wild HPP, thus missing many problems in the final report, like the silt accumulation, the dry rivers, the stupid fish passes and so on. After the Struma and the Botunya rivers destruction we consider this project to be irrelevant and impertinent.

**We have tried to contact EU Institutions to request help on this issue already. On June 30<sup>th</sup> 2015 we lodged the initial Complaint - DG Environment case file ID number CHAP(2015)02363. On January 6<sup>th</sup> 2016 we lodged the Appendix 1 to the original Complaint, which was accepted under the same ID number. On June 20<sup>th</sup> 2016 we lodged the Appendix 2 - we received no feedback for this one, but hope that it is accepted under the same ID number.**

There is no answer yet to any of the above complaints, that's why we hope that this document will be considered as an integral part of the previous complaints.

**We do not believe that SOLVIT is better placed to deal with this problem.**

**V. CONFIDENTIALITY – DATA PROTECTION**

We authorize the Commission to disclose the identity of Balkanka Association and/or the identity of our representative in its contacts with the Bulgarian state authorities, against which we are lodging this complaint.

Actually, we have sent copies of the previous complaints to MOEW, so they are pretty well aware of our actions. They received our warnings too. Having nothing to hide, and some new warnings as well, we will send a copy of this document too.



## VI. AIM OF THE COMPLAINT

**Ladies and gentlemen,**

In the original Complaint the aim was thoroughly described. We will not repeat that once again, only with the following exceptions:

**1. Natura 2000 means nothing in Bulgaria, never mind the EU money that were spent for it. It is quite clear now that the MOEW is not taking any measures to protect the Habitat directive sites but, on the contrary - such sites destruction has been done with the explicit permission of MOEW. The same will happen with the Natura 2000 sites around the future Yadenitsa dam, only this time - with the financial help of the EU.**

If anyone does not believe - come here and see the dead Botunya and Struma rivers. The first one was killed due to the Anarchy established by MOEW and the second one - with the direct permission of MOEW, despite the warning we have sent.

**2. We have seen so many new mistakes along the rivers - that must not be multiplied in the future, by any means. In the meantime some of our warnings have become a fact and the damage caused to nature is already irreparable. We are warning now for many more to come...**

On the other hand, having some experience today with the **Rila Bufer** Habitats and Birds directive site - if the reaction of DG Environment will come after some six years or more - then it will be way too late indeed. It really will be...

**Thank you for your kind understanding and cooperation.**

*"Nature has all the time in the world, we do not".*

**Place, date and signature of complainant/representative:**

Sofia, Bulgaria  
03.09.2016

Representative for this complaint:

/dipl.eng. Dimitar Koumanov/  
Member of the board

